

SENATE BILL 692

C5

EMERGENCY BILL

11r2512
CF HB 391

By: **Senator Middleton and the President (By Request – Administration) and Senators Benson, Forehand, Frosh, Garagiola, Jones–Rodwell, King, Madaleno, Manno, Mathias, Montgomery, Muse, Pinsky, Ramirez, Raskin, ~~and Rosapepe~~ Rosapepe, Kittleman, Klausmeier, Pipkin, and Pugh**

Introduced and read first time: February 4, 2011

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: March 28, 2011

CHAPTER _____

1 AN ACT concerning

2 **Maryland Electricity Service Quality and Reliability Act – Safety Violations**

3 FOR the purpose of requiring the Public Service Commission to adopt certain
4 regulations on or before a certain date that implement certain service quality
5 and reliability standards relating to the delivery of electricity to retail
6 customers by electric companies; requiring certain regulations to include certain
7 service quality and reliability standards, ~~include~~ account for certain major
8 outages, and require an electric company to file a corrective action plan if it fails
9 to meet certain service quality and reliability standards; authorizing the
10 Commission to include in certain regulations a separate reliability standard for
11 each electric company, and require the use of nationally recognized standards
12 for certain purposes; requiring the Commission, in adopting certain regulations,
13 to consider certain standards, ensure certain service quality and reliability
14 standards are cost-effective, and consider certain factors relating to vegetation
15 management; requiring the Commission, on or before a certain date, and each
16 year thereafter, to determine whether certain electric companies have met
17 certain service quality and reliability standards; requiring the Commission to
18 take certain appropriate enforcement action against ~~an~~ a certain electric
19 company if the electric company fails to meet certain service quality and
20 reliability standards; ~~requiring that certain civil penalties be credited to a~~
21 certain electric company's residential ratepayers in a certain manner

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 ~~determined by the Commission and in accordance with a certain principle~~
 2 ~~authorizing the Commission to impose a certain civil penalties on or after a~~
 3 ~~certain date penalty; prohibiting an electric company from recovering the cost of~~
 4 ~~a certain civil penalty from ratepayers; providing that a certain provisions~~
 5 ~~provision relating to corrective action taken penalties imposed by the~~
 6 ~~Commission against an electric company that fails to meet certain service~~
 7 ~~quality and reliability standards do not apply to electric cooperatives; requiring~~
 8 ~~each electric company to submit to the Commission a certain annual~~
 9 ~~performance report; setting forth required contents of the annual performance~~
 10 ~~report; requiring the Commission to hold a certain hearing at the request of an~~
 11 ~~electric company; altering the maximum daily civil penalty that may be imposed~~
 12 ~~on a public service company for certain safety violations; removing a certain cap~~
 13 ~~on the total civil penalty that may be imposed for a related series of safety~~
 14 ~~violations; declaring a certain goal of the State; providing that certain~~
 15 ~~regulations may this Act does not apply to small rural electric cooperatives or~~
 16 ~~municipal electric companies; providing that this Act may not be construed to~~
 17 ~~limit the Commission's authority to adopt and enforce engineering and safety~~
 18 ~~standards for electric companies; providing that certain authorization for the~~
 19 ~~Commission to impose certain civil penalties does not apply to a violation of a~~
 20 ~~certain provision as that provision applies to electric cooperatives; requiring the~~
 21 ~~Commission to establish a certain workgroup to provide certain~~
 22 ~~recommendations; requiring the Commission to review certain regulations,~~
 23 ~~tariffs, or standards, conduct certain studies, and report its findings to certain~~
 24 ~~committees on or before a certain date; defining certain terms; making this Act~~
 25 ~~an emergency measure; and generally relating to electricity safety and~~
 26 ~~reliability standards.~~

27 BY adding to
 28 Article – Public Utilities
 29 Section 7-213
 30 Annotated Code of Maryland
 31 (2010 Replacement Volume)

32 ~~BY repealing and reenacting, with amendments,~~
 33 ~~Article – Public Utilities~~
 34 ~~Section 13-201 and 13-202~~
 35 ~~Annotated Code of Maryland~~
 36 ~~(2010 Replacement Volume)~~

37 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 38 MARYLAND, That the Laws of Maryland read as follows:

39 **Article – Public Utilities**

40 **7-213.**

1 (A) (1) IN THIS SECTION, THE FOLLOWING WORDS HAVE THE
2 MEANINGS INDICATED.

3 (2) “SYSTEM-AVERAGE INTERRUPTION DURATION INDEX” OR
4 “SAIDI” MEANS THE ~~AVERAGE DURATION OF POWER OUTAGES FOR EACH~~
5 ~~ELECTRICITY CUSTOMER CALCULATED BY DIVIDING THE TOTAL OF ALL~~
6 ~~CUSTOMER INTERRUPTION DURATIONS BY THE TOTAL NUMBER OF CUSTOMERS~~
7 ~~SERVED~~ SUM OF THE CUSTOMER INTERRUPTION HOURS DIVIDED BY THE TOTAL
8 NUMBER OF CUSTOMERS SERVED.

9 (3) “SYSTEM-AVERAGE INTERRUPTION FREQUENCY INDEX” OR
10 “SAIFI” MEANS THE ~~AVERAGE NUMBER OF POWER OUTAGES FOR EACH~~
11 ~~ELECTRICITY CUSTOMER CALCULATED BY DIVIDING THE TOTAL NUMBER OF~~
12 ~~CUSTOMER INTERRUPTIONS BY THE TOTAL NUMBER OF CUSTOMERS SERVED~~
13 SUM OF THE NUMBER OF CUSTOMER INTERRUPTIONS DIVIDED BY THE TOTAL
14 NUMBER OF CUSTOMERS SERVED.

15 ~~(B) IT IS THE GOAL OF THE STATE THAT EACH ELECTRIC COMPANY~~
16 ~~RANK IN THE TOP QUARTILE OF ELECTRIC COMPANIES NATIONALLY WITH THE~~
17 ~~HIGHEST LEVELS OF SERVICE QUALITY AND RELIABILITY.~~

18 (B) IT IS THE GOAL OF THE STATE THAT EACH ELECTRIC COMPANY
19 PROVIDE ITS CUSTOMERS WITH HIGH LEVELS OF SERVICE QUALITY AND
20 RELIABILITY IN A COST-EFFECTIVE MANNER, AS MEASURED BY OBJECTIVE AND
21 VERIFIABLE STANDARDS, AND THAT EACH ELECTRIC COMPANY BE HELD
22 ACCOUNTABLE IF IT FAILS TO DELIVER RELIABLE SERVICE ACCORDING TO
23 THOSE STANDARDS.

24 ~~(C) REGULATIONS ADOPTED UNDER THIS~~ THIS SECTION MAY DOES NOT
25 APPLY TO SMALL RURAL ELECTRIC COOPERATIVES OR MUNICIPAL ELECTRIC
26 COMPANIES.

27 (D) ON OR BEFORE JULY 1, 2012, THE COMMISSION SHALL ADOPT
28 REGULATIONS THAT IMPLEMENT SERVICE QUALITY AND RELIABILITY
29 STANDARDS RELATING TO THE DELIVERY OF ELECTRICITY TO RETAIL
30 CUSTOMERS BY ELECTRIC COMPANIES THROUGH THEIR DISTRIBUTION
31 SYSTEMS, USING:

32 (1) SAIFI;

33 (2) SAIDI; AND

34 (3) ANY OTHER ~~STANDARD~~ PERFORMANCE MEASUREMENT THAT
35 THE COMMISSION DETERMINES TO BE REASONABLE.

1 (E) (1) THE REGULATIONS ADOPTED UNDER SUBSECTION (D) OF
2 THIS SECTION SHALL:

3 ~~(1)~~ (I) INCLUDE SERVICE QUALITY AND RELIABILITY
4 STANDARDS, INCLUDING STANDARDS RELATING TO:

5 ~~(I)~~ 1. SERVICE INTERRUPTION;

6 ~~(II)~~ 2. DOWNED WIRE ~~REPAIR~~ RESPONSE;

7 ~~(III)~~ 3. ~~SERVICE QUALITY~~ CUSTOMER COMMUNICATIONS;

8 ~~(IV)~~ 4. VEGETATION MANAGEMENT;

9 5. PERIODIC EQUIPMENT INSPECTIONS;

10 ~~(V)~~ 6. ANNUAL RELIABILITY REPORTING; AND

11 ~~(VI)~~ 7. ANY OTHER STANDARDS ESTABLISHED BY THE
12 COMMISSION;

13 (II) ACCOUNT FOR MAJOR OUTAGES CAUSED BY EVENTS
14 OUTSIDE THE CONTROL OF AN ELECTRIC COMPANY; AND

15 (III) FOR AN ELECTRIC COMPANY THAT FAILS TO MEET THE
16 APPLICABLE SERVICE QUALITY AND RELIABILITY STANDARDS, REQUIRE THE
17 COMPANY TO FILE A CORRECTIVE ACTION PLAN THAT DETAILS SPECIFIC
18 ACTIONS THE COMPANY WILL TAKE TO MEET THE STANDARDS.

19 (2) THE REGULATIONS ADOPTED UNDER SUBSECTION (D) OF
20 THIS SECTION MAY INCLUDE A SEPARATE RELIABILITY STANDARD FOR EACH
21 ELECTRIC COMPANY IN ORDER TO ACCOUNT FOR SYSTEM RELIABILITY
22 DIFFERENTIATING FACTORS , INCLUDING:

23 (I) SYSTEM DESIGN;

24 (II) EXISTING INFRASTRUCTURE;

25 (III) CUSTOMER DENSITY; AND

26 (IV) GEOGRAPHY;~~AND.~~

27 ~~(3) REQUIRE THE USE OF NATIONALLY RECOGNIZED STANDARDS~~
28 ~~TO NORMALIZE;~~

- 1 ~~(I) MAJOR OUTAGE EVENTS;~~
 2 ~~(II) ANOMALOUS EVENTS THAT DO NOT ACHIEVE MAJOR~~
 3 ~~OUTAGE STATUS;~~
 4 ~~(III) YEAR-TO-YEAR WEATHER IMPACTS; AND~~
 5 ~~(IV) OTHER FACTORS THAT THE COMMISSION IDENTIFIES.~~

6 (3) IN ADOPTING THE REGULATIONS REQUIRED UNDER
 7 SUBSECTION (D) OF THIS SECTION, THE COMMISSION SHALL:

8 (I) CONSIDER APPLICABLE STANDARDS OF THE INSTITUTE
 9 OF ELECTRICAL AND ELECTRONICS ENGINEERS;

10 (II) ENSURE THAT THE SERVICE QUALITY AND RELIABILITY
 11 STANDARDS ARE COST-EFFECTIVE; AND

12 (III) WITH RESPECT TO STANDARDS RELATING TO
 13 VEGETATION MANAGEMENT, CONSIDER:

14 1. LIMITATIONS ON AN ELECTRIC COMPANY'S RIGHT
 15 TO ACCESS PRIVATE PROPERTY; AND

16 2. CUSTOMER ACCEPTANCE OF VEGETATION
 17 MANAGEMENT INITIATIVES.

18 (F) (1) ON OR BEFORE JULY 1, 2013, AND JULY 1 OF EACH YEAR
 19 THEREAFTER, THE COMMISSION SHALL DETERMINE WHETHER EACH ELECTRIC
 20 COMPANY HAS MET THE SERVICE QUALITY AND RELIABILITY STANDARDS
 21 ADOPTED BY THE COMMISSION FOR THAT ELECTRIC COMPANY UNDER
 22 SUBSECTION (D) OF THIS SECTION.

23 (2) (I) THIS PARAGRAPH DOES NOT APPLY TO ELECTRIC
 24 COOPERATIVES.

25 (II) ~~THE COMMISSION SHALL TAKE APPROPRIATE~~
 26 ~~CORRECTIVE ACTION~~ MAY IMPOSE A PENALTY AGAINST AN ELECTRIC COMPANY
 27 THAT FAILS TO MEET ANY OR ALL OF THE APPLICABLE SERVICE QUALITY AND
 28 RELIABILITY STANDARDS ADOPTED BY THE COMMISSION UNDER THIS SECTION,
 29 INCLUDING, ON OR AFTER JULY 1, 2014, THE IMPOSITION OF APPROPRIATE
 30 CIVIL PENALTIES FOR NONCOMPLIANCE IN AN AMOUNT NOT EXCEEDING 2.5%
 31 OF THE ELECTRIC COMPANY'S TRANSMISSION AND DISTRIBUTION REVENUES

1 ~~FOR THE PREVIOUS CALENDAR YEAR AS PROVIDED IN § 13-201 OF THIS~~
 2 ~~ARTICLE.~~

3 ~~(3) NOTWITHSTANDING THE PROVISIONS OF § 13-201 OF THIS~~
 4 ~~ARTICLE, CIVIL PENALTIES COLLECTED UNDER THIS SECTION SHALL BE~~
 5 ~~CREDITED TO THE ELECTRIC COMPANY'S RESIDENTIAL RATEPAYERS;~~

6 ~~(I) IN A MANNER THE COMMISSION DETERMINES; AND~~

7 ~~(II) IN ACCORDANCE WITH THE PRINCIPLE THAT~~
 8 ~~RATEPAYERS SHOULD BE COMPENSATED PROPORTIONALLY ACCORDING TO THE~~
 9 ~~NUMBER OF DAYS OF ELECTRIC SERVICE LOST AND THE ESTIMATED~~
 10 ~~OUT OF POCKET EXPENSES TO RATEPAYERS RESULTING FROM A POWER~~
 11 ~~OUTAGE.~~

12 ~~(4) (III) AN ELECTRIC COMPANY MAY NOT RECOVER THE COST~~
 13 ~~OF ANY CIVIL PENALTY PAID UNDER THIS SECTION FROM RATEPAYERS.~~

14 (G) (1) ON OR BEFORE ~~MAY~~ FEBRUARY 1 OF EACH YEAR, EACH
 15 ELECTRIC COMPANY SHALL SUBMIT TO THE COMMISSION AN ANNUAL
 16 PERFORMANCE REPORT THAT SUMMARIZES THE ACTUAL ELECTRIC SERVICE
 17 RELIABILITY RESULTS FOR THE PRECEDING YEAR.

18 (2) THE ANNUAL PERFORMANCE REPORT SHALL INCLUDE:

19 (I) THE ELECTRIC COMPANY'S AVERAGE 3-YEAR
 20 PERFORMANCE RESULTS;

21 (II) ACTUAL YEAR-END PERFORMANCE MEASURE RESULTS;

22 (III) AN ASSESSMENT OF THE RESULTS AND EFFECTIVENESS
 23 OF THE RELIABILITY OBJECTIVES, PLANNED ACTIONS AND PROJECTS,
 24 PROGRAMS, AND LOAD STUDIES IN ACHIEVING AN ACCEPTABLE RELIABILITY
 25 LEVEL; AND

26 (IV) ANNUAL INFORMATION THAT THE COMMISSION
 27 DETERMINES NECESSARY TO ASSESS THE ELECTRIC COMPANY'S EFFORTS TO
 28 MAINTAIN RELIABLE ELECTRIC SERVICE TO ALL CUSTOMERS IN THE ELECTRIC
 29 COMPANY'S SERVICE TERRITORY, INCLUDING:

30 1. CURRENT YEAR EXPENDITURES, LABOR
 31 RESOURCE HOURS, AND PROGRESS MEASURES FOR EACH CAPITAL AND
 32 MAINTENANCE PROGRAM DESIGNED TO SUPPORT THE MAINTENANCE OF
 33 RELIABLE ELECTRIC SERVICE;

- 1 2. THE NUMBER OF OUTAGES BY OUTAGE TYPE;
- 2 3. THE NUMBER OF OUTAGES BY OUTAGE CAUSE;
- 3 4. THE TOTAL NUMBER OF CUSTOMERS THAT
4 EXPERIENCED AN OUTAGE; ~~AND~~
- 5 5. THE TOTAL CUSTOMER MINUTES OF OUTAGE
6 TIME; AND
- 7 6. TO THE EXTENT PRACTICABLE, A BREAKDOWN, BY
8 THE NUMBER OF DAYS EACH CUSTOMER WAS WITHOUT ELECTRIC SERVICE, OF
9 THE NUMBER OF CUSTOMERS THAT EXPERIENCED AN OUTAGE.

10 (3) AT THE REQUEST OF AN ELECTRIC COMPANY, THE
11 COMMISSION SHALL HOLD A HEARING TO DISCUSS THE ANNUAL PERFORMANCE
12 REPORT OF THE ELECTRIC COMPANY.

13 (H) THIS SECTION MAY NOT BE CONSTRUED TO LIMIT THE
14 COMMISSION'S AUTHORITY TO ADOPT AND ENFORCE ENGINEERING AND SAFETY
15 STANDARDS FOR ELECTRIC COMPANIES.

16 ~~13-201.~~

17 ~~(a) This section does not apply to a violation of the following provisions of~~
18 ~~this article:~~

19 ~~(1) Title 5, Subtitle 4;~~

20 ~~(2) Title 7, Subtitle 1;~~

21 ~~(3) § 7-213 AS IT APPLIES TO ELECTRIC COOPERATIVES;~~

22 ~~(4) Title 8, Subtitles 1 and 3;~~

23 ~~[(4)] (5) Title 9, Subtitle 3; and~~

24 ~~[(5)] (6) Title 8, Subtitle 4.~~

25 ~~(b) (1) Except as provided in paragraph (2) of this subsection, the~~
26 ~~Commission may impose a civil penalty not exceeding \$10,000 against a person who~~
27 ~~violates a provision of this division, or an effective and outstanding direction, ruling,~~
28 ~~order, rule, or regulation of the Commission.~~

1 ~~(2) The civil penalty that the Commission may impose on a common~~
2 ~~carrier for each violation may not exceed \$2,500.~~

3 ~~(e) (1) A civil penalty may be imposed in addition to any other penalty~~
4 ~~authorized by this division.~~

5 ~~(2) Each violation is a separate offense.~~

6 ~~(3) Each day or part of a day the violation continues is a separate~~
7 ~~offense.~~

8 ~~(d) The Commission shall determine the amount of any civil penalty after~~
9 ~~considering:~~

10 ~~(1) the number of previous violations of any provision of this article;~~

11 ~~(2) the gravity of the current violation;~~

12 ~~(3) the good faith efforts of the violator in attempting to achieve~~
13 ~~compliance after notification of the violation; and~~

14 ~~(4) any other matter that the Commission considers appropriate and~~
15 ~~relevant.~~

16 ~~(e) A civil penalty collected under this section shall be paid into the General~~
17 ~~Fund of the State.~~

18 ~~13-202.~~

19 ~~(a) In this section, "safety violation" means a condition or activity likely to~~
20 ~~cause injury or harm to an individual or property.~~

21 ~~(b) This section does not apply to a safety violation by a gas company that is~~
22 ~~subject to § 13-203 of this subtitle.~~

23 ~~(e) (1) Subject to paragraph (2) of this subsection, a public service~~
24 ~~company that violates a provision of this division that relates to safety is subject to a~~
25 ~~civil penalty not exceeding ~~[\$500] \$10,000~~ for each violation for each day that the~~
26 ~~violation persists.~~

27 ~~(2) [The maximum civil penalty may not exceed:~~

28 ~~(i) \$50,000 for a related series of violations; or~~

29 ~~(ii) for] FOR a common carrier, THE MAXIMUM CIVIL~~
30 ~~PENALTY MAY NOT EXCEED \$500 for each violation or related series of violations~~
31 ~~stemming from a single safety inspection.~~

1 ~~(d) In determining the amount of a civil penalty imposed under this section,~~
2 ~~the Commission shall consider the:~~

3 ~~(1) appropriateness of the penalty to the size of the public service~~
4 ~~company;~~

5 ~~(2) number of previous violations of this article by the public service~~
6 ~~company;~~

7 ~~(3) gravity of the current violation; and~~

8 ~~(4) good faith of the public service company in attempting to achieve~~
9 ~~compliance after notification of the violation.~~

10 ~~(e) The public service company involved may request reconsideration of a~~
11 ~~penalty imposed under this section within 30 days after the date of notification of the~~
12 ~~determination.~~

13 SECTION 2. AND BE IT FURTHER ENACTED, That the Maryland Public
14 Service Commission shall:

15 (1) review current regulations, tariffs, or standards relating to electric
16 company responsibility for customer damages caused by electrical surges and assess
17 the feasibility of obtaining information from electric companies regarding the extent of
18 electrical surges and customer damages that result from electrical surges;

19 (2) study the feasibility of incorporating an electric company's service
20 restoration plan into the electric company's reliability plan; ~~and~~

21 (3) study and consider whether to prohibit an electric company from
22 calculating the rate charged by the electric company using a formula that decouples
23 the electric company's revenue from the sale of kilowatt-hours unless the formula
24 provides for the suspension of decoupling during any extended service disruption; and

25 (4) on or before January 1, 2012, report its findings to the Senate
26 Finance Committee and the House Economic Matters Committee, in accordance with §
27 2-1246 of the State Government Article.

28 SECTION 3. AND BE IT FURTHER ENACTED, That the Public Service
29 Commission shall convene a stakeholder workgroup to provide recommendations
30 regarding the regulations to be adopted by the Commission under this Act.

31 SECTION ~~2~~ 4. AND BE IT FURTHER ENACTED, That this Act is an
32 emergency measure, is necessary for the immediate preservation of the public health
33 or safety, has been passed by a yea and nay vote supported by three-fifths of all the
34 members elected to each of the two Houses of the General Assembly, and shall take
35 effect from the date it is enacted.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.